

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL NORRIS,	:	No. 1:13-cv-00048
	:	
Plaintiff,	:	
	:	
	:	
vs.	:	ORDER
	:	
	:	
ARIFF MEHTER, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the June 11, 2013 Report and Recommendation (doc. 12) of Magistrate Judge Stephanie K. Bowman, as well as her July 26, 2013 Amended Report and Recommendation (doc. 15).

The procedural and factual backgrounds of this case are well-detailed in the Magistrate Judge's Reports, and the Court will not reiterate them here. In brief, however, Plaintiff, originally proceeding pro se, initiated this litigation against three individuals, Ariff Mehter, Anita Callahan and Pete McLinden, alleging discrimination in the workplace based on age, disability and race. Motions to dismiss were filed on behalf of Mehter and Callahan (doc. 6), as well as McLinden (doc. 7). Plaintiff thereafter retained counsel, who filed a responsive pleading that indicated no opposition to the Mehter/Callahan motion because, "Plaintiff's EEO and OCRC

actions were against the City of Cincinnati and Plaintiff has named [the] City of Cincinnati as a Defendant, [and] therefore the Defendants [that are the] subject of the instant motion to dismiss are not necessary as parties to the action[]" (see doc. 11). No response was filed with respect to the McLinden motion, however.

In her June 11 Report, Magistrate Judge Bowman noted that the record did not support newly-retained counsel's statement that the City of Cincinnati had been named as a defendant in this litigation (see doc. 12 at 3), and she proceeded to recommend that we grant both motions and dismiss with prejudice all claims brought against the named Defendants and then close this case on our docket (id. at 7). Proper notice of this Report and Recommendation was provided to the parties under 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), including the advice that they would waive further appeal if they failed to file an objection in a timely manner.¹ Within that statutorily prescribed period no objections were filed, but, recognizing (and wishing to remedy) the fact that the City of Cincinnati indeed had not been named a defendant, Plaintiff filed a motion for leave to amend the complaint (doc. 13). Noting the lack of any objection to Plaintiff's motion, by Order

¹See Thomas v. Arn, 474 U.S. 140, 155 (1985); United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).

dated July 26, 2013, Magistrate Judge Bowman granted same (doc. 14). Also on July 26 the Magistrate Judge issued an Amended Report in which she recommended that her June 11 Report be denied as moot. Further, she renewed her recommendation that the motions to dismiss filed on behalf of Mehter/Callahan and McLinden be granted and that all claims against them be dismissed with prejudice. Finally, she recommended that the case remain open until August 15, 2013 to permit Plaintiff to file an Amended Complaint naming the City of Cincinnati as his employer "to the extent that additional allegations . . . may state a claim against that employer." (See doc. 15 at 8.) Proper notice of this Report and Recommendation likewise was given, and no objections were filed. Plaintiff, though, did timely file an Amended Complaint (doc. 16).

Having reviewed this matter pursuant to 28 U.S.C. § 636(b)(1), we conclude that the July 26, 2013 Amended Report and Recommendation by Magistrate Judge Bowman (doc. 15) is thorough, well-reasoned and correct. Accordingly, the Court ACCEPTS, ADOPTS AND AFFIRMS it. Therefore, we REJECT AND DENY AS MOOT the June 11, 2013 Report and Recommendation (doc. 12), and GRANT the Motions to Dismiss by Defendants Ariff Mehter and Anita Callahan (doc. 6) and by Defendant Pete McLinden (doc. 7) and DISMISS WITH PREJUDICE all claims against them. We conclude that this case was properly held open until August 15, 2013, the

date by which Plaintiff was to (and in fact did) file his Amended Complaint (see doc. 16), and await the Magistrate Judge's report concerning the Motion to Dismiss by Defendant the City of Cincinnati (doc. 18), which Plaintiff has opposed (doc. 24), making the matter ripe for consideration.

SO ORDERED.

Dated: February 26, 2014 s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge